

**Title 10: COMMERCE AND TRADE**  
**Chapter 901: DEPARTMENT OF**  
**PROFESSIONAL AND FINANCIAL REGULATION**

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**Maine Revised Statutes**  
**Title 10: COMMERCE AND TRADE**  
**Chapter 901: DEPARTMENT OF**  
**PROFESSIONAL AND FINANCIAL REGULATION**

**§8001. DEPARTMENT; ORGANIZATION**

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, grantors of consumer credit and to license and regulate professions and occupations. The mission of the department is to encourage sound, ethical business practices through high-quality, impartial and efficient regulation of insurers, financial institutions, creditors, investment providers and numerous professions and occupations for the purpose of protecting consumers. The department is composed of the following: [1999, c. 687, Pt. C, §1 (AMD) .]

**1. Bureau of Financial Institutions.** Bureau of Financial Institutions;

[ 2001, c. 44, §9 (AMD); 2001, c. 44, §14 (AFF) .]

**2. Bureau of Consumer Credit Protection.** Bureau of Consumer Credit Protection;

[ 1995, c. 309, §26 (AMD); 1995, c. 309, §29 (AFF); 1995, c. 397, §4 (AMD); 2007, c. 273, Pt. B, §5 (REV); 2007, c. 695, Pt. A, §47 (AFF) .]

**3. Bureau of Insurance.** Bureau of Insurance;

[ 1995, c. 397, §4 (AMD) .]

**3-A. Office of Securities.** Office of Securities; and

[ 2001, c. 182, §5 (NEW) .]

**4. Maine Athletic Commission.**

[ 1995, c. 397, §5 (RP) .]

**5. Maine State Pilotage Commission.**

[ 1995, c. 397, §5 (RP) .]

**6. Real Estate Commission.**

[ 1995, c. 397, §5 (RP) .]

**7. Arborist Examining Board.**

[ 1995, c. 397, §5 (RP) .]

**8. Board of Licensing of Auctioneers.**

[ 1995, c. 397, §5 (RP) .]

**9. Board of Barbering and Cosmetology.**

[ 1995, c. 397, §5 (RP) .]

**10. Board of Commercial Driver Education.**

[ 1995, c. 397, §5 (RP) .]

**10. Board of Driver Education.**

[ 1995, c. 505, §22 (AFF); 1995, c. 505, §4 (RP) .]

**11. Board of Licensing of Dietetic Practice.**

[ 1995, c. 397, §5 (RP) .]

**12. Electricians' Examining Board.**

[ 1995, c. 397, §5 (RP) .]

**13. State Board of Licensure for Professional Foresters.**

[ 1995, c. 397, §5 (RP) .]

**14. State Board of Funeral Service.**

[ 1995, c. 397, §5 (RP) .]

**15. State Board of Certification for Geologists and Soil Scientists.**

[ 1995, c. 397, §5 (RP) .]

**16. Board of Hearing Aid Dealers and Fitters.**

[ 1995, c. 397, §5 (RP) .]

**17. Manufactured Housing Board.**

[ 1995, c. 397, §5 (RP) .]

**18. Nursing Home Administrators Licensing Board.**

[ 1995, c. 397, §5 (RP) .]

**19. Board of Occupational Therapy Practice.**

[ 1995, c. 397, §5 (RP) .]

**20. Oil and Solid Fuel Board.**

[ 1995, c. 397, §5 (RP) .]

**21. Board of Examiners in Physical Therapy.**

[ 1995, c. 397, §5 (RP) .]

**22. Plumbers' Examining Board.**

[ 1995, c. 397, §5 (RP) . ]

**22-A. Board of Licensure of Podiatric Medicine.**

[ 1995, c. 397, §6 (RP) . ]

**23. State Board of Examiners of Psychologists.**

[ 1995, c. 397, §7 (RP) . ]

**24. Radiologic Technology Board of Examiners.**

[ 1995, c. 397, §7 (RP) . ]

**25. Board of Respiratory Care Practitioners.**

[ 1995, c. 397, §7 (RP) . ]

**26. State Board of Social Worker Licensure.**

[ 1995, c. 397, §7 (RP) . ]

**27. Board of Examiners on Speech Pathology and Audiology.**

[ 1995, c. 397, §7 (RP) . ]

**28. State Board of Substance Abuse Counselors.**

[ 1995, c. 397, §7 (RP) . ]

**29. State Board of Veterinary Medicine.**

[ 1995, c. 397, §7 (RP) . ]

**30. Acupuncture Licensing Board.**

[ 1995, c. 397, §7 (RP) . ]

**31. Board of Commissioners of the Profession of Pharmacy.**

[ 1995, c. 397, §7 (RP) . ]

**32. Board of Licensure for Professional Land Surveyors.**

[ 1995, c. 397, §7 (RP) . ]

**32-A. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers.**

[ 1995, c. 397, §8 (RP) . ]

**33. Board of Chiropractic Licensure.**

[ 1995, c. 397, §9 (RP) . ]

**34. Board of Licensure of Railroad Personnel.**

[ 1993, c. 428, §2 (RP) .]

**35. Board of Counseling Professionals Licensure.**

[ 1995, c. 625, Pt. A, §17 (RP) .]

**36. Board of Real Estate Appraisers.**

[ 1995, c. 625, Pt. A, §17 (RP) .]

**37. Real Estate Commission.**

[ 1995, c. 502, Pt. H, §7 (RP) .]

**38. Office of Professional and Occupational Regulation.** Office of Professional and Occupational Regulation. The Office of Professional and Occupational Regulation is composed of the following:

A. Board of Accountancy; [1995, c. 397, §11 (NEW).]

B. [1995, c. 671, §6 (RP).]

C. [1999, c. 386, Pt. B, §1 (RP).]

D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers; [1995, c. 397, §11 (NEW).]

E. [2011, c. 286, Pt. B, §1 (RP).]

F. Board of Licensing of Auctioneers; [1995, c. 397, §11 (NEW).]

G. [2009, c. 369, Pt. A, §22 (RP).]

H. Board of Chiropractic Licensure; [1995, c. 397, §11 (NEW).]

H-1. Board of Complementary Health Care Providers; [1995, c. 671, §7 (NEW).]

I. [2011, c. 286, Pt. B, §1 (RP).]

J. Board of Counseling Professionals Licensure; [1995, c. 397, §11 (NEW).]

K. Board of Licensing of Dietetic Practice; [1995, c. 397, §11 (NEW).]

L. Electricians' Examining Board; [1995, c. 397, §11 (NEW).]

M. Board of Licensure of Foresters; [1995, c. 397, §11 (NEW); 2001, c. 261, §5 (AMD).]

N. State Board of Funeral Service; [1995, c. 397, §11 (NEW).]

O. State Board of Certification for Geologists and Soil Scientists; [1995, c. 397, §11 (NEW).]

P. [2007, c. 369, Pt. B, §2 (RP); 2007, c. 369, Pt. C, §5 (AFF).]

Q. Board of Licensure for Professional Land Surveyors; [1995, c. 397, §11 (NEW).]

R. Manufactured Housing Board; [1995, c. 397, §11 (NEW).]

S. Nursing Home Administrators Licensing Board; [1995, c. 397, §11 (NEW).]

T. Board of Occupational Therapy Practice; [1995, c. 397, §11 (NEW).]

U. [2009, c. 344, Pt. B, §1 (RP); 2009, c. 344, Pt. E, §2 (AFF).]

V. Maine Board of Pharmacy; [1995, c. 397, §11 (NEW); 1997, c. 245, §19 (AMD).]

- W. Board of Examiners in Physical Therapy; [1995, c. 397, §11 (NEW).]
- X. [1997, c. 727, Pt. C, §1 (RP).]
- Y. Plumbers' Examining Board; [1995, c. 397, §11 (NEW).]
- Z. Board of Licensure of Podiatric Medicine; [1995, c. 397, §11 (NEW).]
- AA. State Board of Examiners of Psychologists; [1995, c. 397, §11 (NEW).]
- BB. Radiologic Technology Board of Examiners; [1995, c. 397, §11 (NEW).]
- CC. Board of Real Estate Appraisers; [1995, c. 397, §11 (NEW).]
- DD. Board of Respiratory Care Practitioners; [1995, c. 397, §11 (NEW).]
- EE. State Board of Social Worker Licensure; [1995, c. 397, §11 (NEW).]
- FF. [2007, c. 369, Pt. B, §3 (RP); 2007, c. 369, Pt. C, §5 (AFF).]
- GG. State Board of Alcohol and Drug Counselors; [1995, c. 502, Pt. H, §8 (AMD).]
- HH. State Board of Veterinary Medicine; [1995, c. 502, Pt. H, §8 (AMD).]
- II. [2009, c. 344, Pt. B, §2 (RP); 2009, c. 344, Pt. E, §2 (AFF).]
- JJ. Real Estate Commission; [1995, c. 560, Pt. H, §3 (AMD); 1995, c. 560, Pt. H, §17 (AFF).]
- KK. [2013, c. 70, Pt. B, §1 (RP).]
- LL. [2013, c. 70, Pt. B, §1 (RP).]
- MM. Board of Speech, Audiology and Hearing; and [2011, c. 286, Pt. B, §1 (AMD).]
- NN. Maine Fuel Board. [2009, c. 344, Pt. B, §5 (NEW); 2009, c. 344, Pt. E, §2 (AFF).]

The Office of Professional and Occupational Regulation also administers the following regulatory functions: licensure of athletic trainers; licensure of massage therapists; licensure of interpreters for the deaf and hard-of-hearing; licensure of persons pursuant to the Charitable Solicitations Act; licensure of transient sellers, including door-to-door home repair transient sellers; licensure of persons pursuant to the Barbering and Cosmetology Licensure Act; licensure of persons pursuant to the laws governing boiler and pressure vessel safety and elevator and tramway safety; and inspection and certification requirements for boilers, pressure vessels, elevators and tramways pursuant to the laws governing boiler and pressure vessel safety and elevator and tramway safety.

[ 2013, c. 70, Pt. B, §1 (AMD) .]

#### SECTION HISTORY

1971, c. 488, §§1,3 (NEW). 1973, c. 537, §15 (RP). 1973, c. 585, §4 (RPR). 1973, c. 788, §43 (RPR). 1975, c. 134, §4 (AMD). 1975, c. 547, §4 (AMD). 1975, c. 579, §1 (AMD). 1975, c. 767, §9 (RPR). 1975, c. 770, §58 (AMD). 1975, c. 771, §122 (AMD). 1977, c. 78, §36 (RPR). 1977, c. 160, §2 (AMD). 1977, c. 466, §1 (AMD). 1977, c. 673, §1 (AMD). 1979, c. 606, §2 (AMD). 1981, c. 501, §37 (AMD). 1981, c. 703, §A2 (AMD). 1983, c. 553, §11 (AMD). 1983, c. 746, §1 (AMD). 1983, c. 758, §1 (AMD). 1985, c. 233, §2 (RPR). 1985, c. 288, §2 (RPR). 1985, c. 389, §6 (RPR). 1985, c. 737, §A21 (RPR). 1985, c. 748, §15 (RPR). 1985, c. 819, §§A15,16 (AMD). 1987, c. 395, §A34 (RPR). 1987, c. 488, §2 (RPR). 1989, c. 450, §4 (RPR). 1989, c. 465, §2 (RPR). 1989, c. 502, §A31 (RPR). 1989, c. 806, §2 (RPR). 1989, c. 878, §D6 (RPR). 1991, c. 396, §1 (AMD). 1991, c. 397, §3 (AMD). 1991, c. 548, §B1 (RPR). 1993, c. 389, §3 (AMD). 1993, c. 428, §2 (AMD). 1993, c. 600,

§§A6,7 (AMD). 1995, c. 309, §26 (AMD). 1995, c. 309, §29 (AFF). 1995, c. 389, §§2,3 (AMD). 1995, c. 397, §§3-11 (AMD). 1995, c. 402, §§A3,47 (AMD). 1995, c. 502, §§H6-8 (AMD). 1995, c. 505, §4 (AMD). 1995, c. 505, §22 (AFF). 1995, c. 560, §§H3,4 (AMD). 1995, c. 560, §H17 (AFF). 1995, c. 625, §A17 (AMD). 1995, c. 671, §§6,7 (AMD). 1997, c. 727, §C1 (AMD). 1997, c. 749, §2 (AMD). 1999, c. 386, §B1 (AMD). 1999, c. 399, §2 (AMD). 1999, c. 399, §20 (AFF). 1999, c. 687, §C1 (AMD). 2001, c. 44, §9 (AMD). 2001, c. 44, §14 (AFF). 2001, c. 182, §5 (AMD). 2001, c. 261, §5 (AMD). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 273, Pt. B, §5 (REV). 2007, c. 369, Pt. B, §§2-6 (AMD). 2007, c. 369, Pt. C, §5 (AFF). 2007, c. 402, Pt. C, §1 (AMD). 2007, c. 695, Pt. A, §47 (AFF). 2009, c. 344, Pt. B, §§1-5 (AMD). 2009, c. 344, Pt. E, §2 (AFF). 2009, c. 369, Pt. A, §22 (AMD). 2011, c. 286, Pt. B, §1 (AMD). 2013, c. 70, Pt. B, §1 (AMD).

## §8001-A. DEPARTMENT; AFFILIATION

The following boards and commissions are affiliated with the Department of Professional and Financial Regulation: [1989, c. 450, §5 (NEW).]

### 1. State Board of Registration of Architects and Landscape Architects.

[ 1991, c. 396, §2 (RP) .]

### 2. State Board of Cosmetology.

[ 1991, c. 397, §4 (RP) .]

### 3. Board of Dental Examiners. Dental Examiners, Board of;

[ 1989, c. 450, §5 (NEW) .]

### 4. Board of Licensure in Medicine. Medicine, Board of Licensure in;

[ 1993, c. 600, Pt. A, §8 (AMD) .]

### 5. State Board of Nursing. Nursing, State Board of;

[ 1989, c. 450, §5 (NEW) .]

### 6. Board of Optometric Examiners. Optometric Examiners, Board of;

[ 1989, c. 450, §5 (NEW) .]

### 7. Board of Osteopathic Licensure. Osteopathic Licensure, Board of;

[ 1993, c. 600, Pt. A, §9 (AMD) .]

### 8. Board of Examiners of Podiatrists.

[ 1993, c. 600, Pt. A, §10 (RP) .]

**9. Board of Registration for Professional Engineers.** Professional Engineers, Board of Registration for.

[ 1989, c. 450, §5 (NEW) .]

SECTION HISTORY

1989, c. 450, §5 (NEW). 1991, c. 396, §2 (AMD). 1991, c. 397, §4 (AMD). 1993, c. 600, §§A8,10 (AMD).

**§8002. DUTIES AND AUTHORITY OF COMMISSIONER**

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to: [2011, c. 1, Pt. AA, §1 (AMD).]

**1. Budget.** Prepare the budget for the department;

[ 1975, c. 767, §9 (RPR) .]

**2. Personnel.** Except as otherwise specified, appoint and remove, subject to the Civil Service Law, all personnel considered necessary to fulfill the duties and functions of the department; appoint an assistant to the commissioner to serve at the commissioner's pleasure; and transfer personnel within the department to ensure efficient utilization of department personnel;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**3. Purchases.** Coordinate the purchase and use of all equipment and supplies within the department;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**4. Review.** Review the organization, functions and operation of bureaus, offices, boards and commissions within and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies fully with its statutory and public service responsibilities;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**5. Liaison.** Act as a liaison among the bureaus, offices, boards and commissions within and affiliated with the department and act as liaison between them and the Governor;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**6. Recommendations.** Recommend to the Governor and Legislature those changes in the laws relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department as the commissioner determines desirable;

[ 1995, c. 502, Pt. H, §9 (NEW) .]

**7. Delegate authority.** Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority;

[ 1997, c. 727, Pt. A, §4 (AMD) .]

**8. Adequate resources.** Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned;

[ 1999, c. 184, §12 (AMD) .]

**9. Licensing.** Coordinate all administrative processes related to licensing functions of bureaus, offices, boards and commissions within the department, including but not limited to the frequency and form of applications and licenses;

[ 2007, c. 466, Pt. C, §3 (AMD) .]

**10. Confidentiality of shared information.** Keep confidential any information provided by or to the commissioner that has been designated confidential by the agency, bureau, board or commission within or affiliated with the department that furnished the information and that is the property of the agency, bureau, board or commission that furnished the information. Any information provided pursuant to this subsection may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency, bureau, board or commission that furnished the information;

[ 2011, c. 603, §1 (AMD) .]

**11. Report on fees.** By December 1st of each even-numbered year, conduct a review of the fees assessed by the department and provide a written report to the State Budget Officer and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and financial services matters and business, research and economic development matters identifying any fee changes the commissioner recommends for the next biennium; and

[ 2011, c. 603, §2 (AMD) .]

**12. Recommend measures.** Recommend legislation or other measures to the Governor and the Legislature for the purpose of assisting current and former members of the United States Armed Forces in obtaining any professional license within the provisions of the department related to their relevant training and experience from their military service.

[ 2011, c. 603, §3 (NEW) .]

#### SECTION HISTORY

1973, c. 585, §4 (RPR). 1975, c. 134, §5 (AMD). 1975, c. 579, §2 (AMD). 1975, c. 767, §9 (RPR). 1975, c. 770, §59 (AMD). 1977, c. 78, §37 (AMD). 1977, c. 564, §49 (AMD). 1983, c. 489, §7 (AMD). 1983, c. 553, §12 (AMD). 1985, c. 748, §§16,17 (AMD). 1993, c. 659, §B1 (AMD). 1995, c. 502, §H9 (AMD). 1997, c. 727, §§A3-5 (AMD). 1999, c. 184, §§12-14 (AMD). 1999, c. 687, §§C2-4 (AMD). 2007, c. 466, Pt. C, §§3-5 (AMD). 2007, c. 539, Pt. T, §1 (AMD). 2011, c. 1, Pt. AA, §1 (AMD). 2011, c. 603, §§1-3 (AMD).

## §8003. DEPARTMENTAL ORGANIZATION; DUTIES

**1. Division of Administrative Services.** There is created a Division of Administrative Services, which is a division within the department under the commissioner's office, to provide assistance to the commissioner and to the agencies within and affiliated with the department in civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform other duties the commissioner designates. The commissioner may employ a Director of Administrative Services and clerical and technical assistants necessary to discharge the duties of the division and shall outline their duties and fix their compensation, subject to the Civil Service Law.

A. Within the Division of Administrative Services, there is a computer services section. It is the responsibility of the computer services section to provide technical assistance to the Office of Professional and Occupational Regulation to process and issue original and renewal licenses for the department and for bureaus, offices, boards and commissions within the department as the commissioner directs. The licenses may be processed and issued only upon authorization of the appropriate bureau, office, board or commission or upon the authorization of the commissioner in the case of licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, offices, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner directs. [1995, c. 502, Pt. H, §10 (AMD); 2011, c. 286, Pt. B, §5 (REV).]

[ 1995, c. 502, Pt. H, §10 (AMD); 2011, c. 286, Pt. B, §5 (REV) .]

### 2. Office of Licensing and Registration.

[ 1999, c. 687, Pt. C, §5 (RP) .]

**2-A. Office of Professional and Occupational Regulation.** There is created an Office of Professional and Occupational Regulation, referred to in this subsection as the "office," composed of the boards, commissions and regulatory functions set forth in section 8001, subsection 38. The commissioner may appoint a Director of the Office of Professional and Occupational Regulation and those clerical and technical assistants who are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. Notwithstanding any other provision of law granting authority to a board or commission, the Director of the Office of Professional and Occupational Regulation has the following superseding powers, duties and functions:

A. To administer the office and maximize and direct the use of personnel and financial resources to regulate professionals in the best interest of the public; [1999, c. 687, Pt. C, §6 (NEW).]

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory purposes of the boards and commissions. The Director of the Office of Professional and Occupational Regulation shall maintain one office budget that includes a separate account for each board or commission. The Director of the Office of Professional and Occupational Regulation has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or that would seriously jeopardize a board's or commission's fiscal well-being; [1999, c. 687, Pt. C, §6 (NEW); 2011, c. 286, Pt. B, §5 (REV).]

C. To provide all staffing necessary and appropriate to administer the office and carry out the statutory missions of the boards, commissions and regulatory functions. All clerks, technical support staff and supervisors must be assigned to the office and allocated by the director to perform functions on behalf of the various boards, commissions and regulatory functions according to need; [1999, c. 687, Pt. C, §6 (NEW).]

D. To establish by rule and after reasonable notice to the affected board all fees necessary and appropriate for all boards, commissions and regulatory functions within the office, subject to any fee cap established by statute and applicable to that board, commission or regulatory function. The Director of the Office of Professional and Occupational Regulation shall set the criteria for all fees. The criteria must include, but are not limited to, the costs, statutory requirements, enforcement requirements and fees and expenses of each board, commission or regulatory function. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [2001, c. 323, §9 (AMD); 2011, c. 286, Pt. B, §5 (REV).]

E. To establish by rule, such processes and procedures necessary to administer the various boards, commissions and regulatory functions of the office, including, but not limited to, a uniform complaint procedure, a uniform procedure regarding protested checks, a uniform policy regarding the treatment of late renewals and a uniform procedure for substantiating continuing education requirements. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [1999, c. 687, Pt. C, §6 (NEW).]

F. To keep records of public meetings, proceedings and actions and to make those records available to the public at cost upon request, unless otherwise prohibited by state or federal law; [1999, c. 687, Pt. C, §6 (NEW).]

G. To enter into contracts to ensure the provision of goods and services necessary to perform regulatory functions and to fulfill statutory responsibilities. This authority includes the ability to employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as necessary to assist the office in carrying out its regulatory functions and to contract office staff to other state and federal regulatory agencies to assist those agencies in carrying out their regulatory functions; [1999, c. 687, Pt. C, §6 (NEW).]

H. To perform licensing functions for other state agencies on a fee-for-service basis; [1999, c. 687, Pt. C, §6 (NEW).]

I. To enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory functions of the office, including, but not limited to, information sharing, coordination of examinations or inspections and joint examinations or inspections. Any information furnished pursuant to this paragraph by or to the office that has been designated confidential by the agency furnishing the information remains confidential and the property of the agency furnishing the information and may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency that furnished the information; [1999, c. 687, Pt. C, §6 (NEW).]

J. To direct staff to review and approve applications for licensure or renewal in accordance with criteria established in statute or in rules adopted by a board or commission. Licensing decisions made by staff may be appealed to the full board or commission; [1999, c. 687, Pt. C, §6 (NEW).]

K. To prepare and submit to the commissioner an annual report of the office's operations, activities and goals; and [1999, c. 687, Pt. C, §6 (NEW).]

L. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes. [1999, c. 687, Pt. C, §6 (NEW).]

[ 2001, c. 323, §9 (AMD); 2011, c. 286, Pt. B, §5 (REV) .]

**3. License defined.** For purposes of this section, the term "license" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

[ 1991, c. 509, §1 (AMD) .]

**4. Licensing periods; renewal dates.** The commissioner may establish expiration or renewal dates and establish whether licenses are issued annually or biennially for all licenses authorized to be issued by bureaus, offices, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, office, board or commission, or the department in the case of a license that it issues directly, shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date established by the commissioner, the license remains in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, office, board or commission. Should a licensee seek to renew the license at the end of the original term, the law or regulations established by the respective bureau, office, board or commission for late renewals or reregistrations apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, offices, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. This section may not change the term or fee for one-time licenses, except as specifically stated.

[ 1999, c. 386, Pt. B, §3 (AMD) . ]

**4-A. Disclosure and recording of social security numbers.** An individual who applies for a license shall provide that individual's social security number on the application, which must be recorded.

[ 1997, c. 537, §3 (NEW); 1997, c. 537, §62 (AFF) . ]

**5. Authority of bureaus, offices, boards or commissions.** In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Financial Institutions or the Office of Professional and Occupational Regulation, including the licensing boards and commissions and regulatory functions within the Office of Professional and Occupational Regulation.

A. [1989, c. 450, §6 (RP) . ]

A-1. For each violation of applicable laws, rules or conditions of licensure or registration, the bureau, office, board or commission may take one or more of the following actions:

- (1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;
- (2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's or registrant's record;
- (2-A) Revoke a license or registration;
- (3) Impose civil penalties of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and
- (4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant. [ 2001, c. 167, §1 (AMD) . ]

B. The bureau, office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2001, c. 167, §1 (AMD).]

C. The bureau, office, board or commission may:

- (1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms;
- (2) Except as provided in Title 37-B, section 390-A, require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate. Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;
- (3) Refuse to renew a license or registration or deny a license when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a bureau, office, board or commission order or consent agreement;
- (4) Allow licensees or registrants to hold inactive status licenses or registrations in accordance with each bureau's, office's, board's or commission's rules. The fee for an inactive license or registration may not exceed the statutory fee cap established for the bureau's, office's, board's or commission's license or registration renewal set forth in its governing law; or
- (5) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules developed pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2005, c. 111, §1 (AMD).]

D. The bureau, office, board or commission may require surrender of licenses and registrations. In order for a licensee's or registrant's surrender of a license or registration to be effective, a surrender must first be accepted by vote of the bureau, office, board or commission. Bureaus, offices, boards and commissions may refuse to accept surrender of licenses and registrations if the licensee or registrant is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this chapter. [1995, c. 502, Pt. H, §10 (AMD).]

E. The bureau, office, board or commission may issue letters of guidance or concern to a licensee or registrant. Letters of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The bureau, office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file

may be accessed and considered by the bureau, office, board or commission in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21, the Maine Health Security Act. [1999, c. 386, Pt. B, §5 (AMD) . ]

F. A bureau, office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §2 (AMD) . ]

G. Notwithstanding any other provision of law, any bureau, office, board or commission within or affiliated with the department may issue a temporary license for a period of 6 months and waive all licensing requirements, except for fees, to any applicant upon a showing of current, valid licensure in that profession in another state. [2005, c. 474, §1 (NEW) . ]

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Any nonconsensual revocation of an occupational or professional license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this section.

[ 2007, c. 402, Pt. C, §2 (AMD); 2011, c. 286, Pt. B, §5 (REV) . ]

**5-A. Authority of Office of Professional and Occupational Regulation.** In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Professional and Occupational Regulation, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

- (1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;
- (2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;
- (3) Conviction of a crime to the extent permitted by Title 5, chapter 341;
- (4) Any violation of the governing law of an office, board or commission;
- (5) Any violation of the rules of an office, board or commission;
- (6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;
- (7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;
- (8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;

- (9) Noncompliance with an order or consent agreement of an office, board or commission;
- (10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or
- (11) Any violation of a requirement imposed pursuant to section 8003-G. [2009, c. 112, Pt. B, §4 (AMD).]

B. The office, board or commission may impose the following forms of discipline upon a licensee or applicant for licensure:

- (1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;
- (2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;
- (3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;
- (4) Revocation of a license;
- (5) Imposition of civil penalties of up to \$1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity; or
- (6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. [2009, c. 112, Pt. B, §4 (AMD).]

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2007, c. 402, Pt. C, §3 (NEW).]

D. The office, board or commission may:

- (3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A;
- (4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Professional and Occupational Regulation if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2011, c. 286, Pt. B, §2 (AMD).]

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement. [2007, c. 402, Pt. C, §3 (NEW).]

F. The office, board or commission may issue a letter of guidance or concern to a licensee as part of the dismissal of a complaint against the licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21. [2013, c. 217, Pt. A, §1 (AMD).]

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §3 (NEW).]

The jurisdiction to impose discipline against occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 and is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

In the event of appeal to Superior Court from any form of discipline imposed pursuant to this subsection, including denial or nonrenewal of a license, the office, board or commission may assess the licensed person or entity for the costs of transcribing and reproducing the administrative record.

[ 2013, c. 217, Pt. A, §1 (AMD) .]

**6. Funding.** The commissioner may assess each internal bureau, office, board or commission served by the commissioner's office, the Division of Administrative Services or the Office of Professional and Occupational Regulation its reasonable share of an amount sufficient to cover the cost of operating those service agencies. The commissioner may assess any board affiliated with the department for the services the board receives from the department. The commissioner may assess other state agencies for licensing functions performed on behalf of those agencies by the Office of Professional and Occupational Regulation.

[ 1999, c. 687, Pt. C, §8 (AMD); 2011, c. 286, Pt. B, §5 (REV) .]

**7. Evidentiary effect of certificate.** Notwithstanding any provision of law or rule of evidence, the certificate of the commissioner under the seal of the State must be received by any court in this State as prima facie evidence of the issuance, suspension or revocation of any license issued by the department.

[ 1991, c. 509, §3 (NEW) .]

#### **8. Display of license.**

[ 2009, c. 112, Pt. A, §2 (RP) .]

#### **9. Construction.**

[ 1999, c. 687, Pt. C, §9 (RP) .]

**10. National disciplinary record system.** Within the limits of available revenues, all bureaus, offices, boards or commissions internal or affiliated with the department shall join or subscribe to a national disciplinary record system used to track interstate movement of regulated professionals who have been the subject of discipline by state boards, commissions or agencies and report disciplinary actions taken within this State to that system.

[ 1995, c. 502, Pt. H, §10 (AMD) .]

#### SECTION HISTORY

1975, c. 556, §1 (NEW). 1975, c. 705, §3 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 113, (AMD). 1977, c. 273, §§1,2 (AMD). 1983, c. 553, §13 (RPR). 1985, c. 748, §18 (AMD). 1985, c. 785, §B55 (AMD). 1987, c. 595, §2 (AMD). 1987, c. 609, §§1,2 (AMD). 1989, c. 450, §6 (AMD). 1991, c. 509, §§1-3 (AMD). 1993, c. 600, §A11 (AMD). 1993, c. 659, §§B2,3 (AMD). 1995, c. 397, §12 (AMD). 1995, c. 502, §H10 (AMD). 1997, c. 210, §§1-3 (AMD). 1997, c. 537, §3 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 680, §A1 (AMD). 1999, c. 184, §§15-17 (AMD). 1999, c. 386, §§B2-5 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 687, §§C5-9 (AMD). 2001, c. 44, §10 (AMD). 2001, c. 44, §14 (AFF). 2001, c. 167, §1 (AMD). 2001, c. 323, §9 (AMD). 2003, c. 204, §B1 (AMD). 2005, c. 111, §1 (AMD). 2005, c. 474, §1 (AMD). 2007, c.

402, Pt. C, §§2, 3 (AMD). 2007, c. 621, §§2, 3 (AMD). 2009, c. 112, Pt. A, §2 (AMD). 2009, c. 112, Pt. B, §4 (AMD). 2011, c. 286, Pt. B, §2 (AMD). 2011, c. 286, Pt. B, §5 (REV). 2013, c. 217, Pt. A, §1 (AMD).

## §8003-A. COMPLAINT INVESTIGATION

**1. Affiliated boards.** In aid of their investigative authority, the licensing boards and commissions affiliated with the department pursuant to section 8001-A may issue subpoenas in the name of the relevant licensing board or commission, in accordance with the terms of Title 5, section 9060, except that the authority applies to any stage of an investigation and is not limited to an adjudicatory proceeding.

[ 2007, c. 402, Pt. C, §4 (NEW) .]

**2. Office of Professional and Occupational Regulation.** The Office of Professional and Occupational Regulation, including the licensing boards and commissions and regulatory functions within the office, may receive, initiate and investigate complaints alleging any ground for disciplinary action set forth in section 8003, subsection 5-A. To assist with complaint or other investigations, or as otherwise considered necessary for the fulfillment of their responsibilities, the office, boards and commissions may hold hearings and may issue subpoenas for witnesses, records and documents in the name of the office, board or commission, as the case may be, in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing held pursuant to section 8003, subsection 5-A.

Investigative personnel of the Office of Professional and Occupational Regulation, during the normal conduct of their work for boards, commissions and regulatory functions within the office, may conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with specific statutory authority. When specific authority does not exist to appeal an order to correct, that process must be established by rule by the respective board.

[ 2007, c. 402, Pt. C, §4 (NEW); 2011, c. 286, Pt. B, §5 (REV) .]

**3. Dispositions available to the public.** Upon disposition of each complaint and investigation, the office and all boards and commissions shall make such disposition available to the public.

[ 2007, c. 402, Pt. C, §4 (NEW) .]

### SECTION HISTORY

1985, c. 748, §19 (NEW). 1991, c. 509, §4 (AMD). 1995, c. 502, §H11 (AMD). 2007, c. 402, Pt. C, §4 (RPR). 2011, c. 286, Pt. B, §5 (REV).

## §8003-B. CONFIDENTIALITY OF INVESTIGATIVE RECORDS

**1. During investigation.** Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards, commissions and regulatory functions within or affiliated with the Department of Professional and Financial Regulation are confidential during the pendency of an investigation. Those records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

- A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter 4 has been issued; [2009, c. 465, §1 (AMD).]
- B. [1999, c. 687, Pt. C, §10 (RP).]
- C. A consent agreement has been executed; or [1989, c. 173, (NEW).]

D. A letter of dismissal has been issued or the investigation has otherwise been closed. [1989, c. 173, (NEW).]

[ 2009, c. 465, §1 (AMD) .]

**2. Exceptions.** Notwithstanding subsection 1, during the pendency of an investigation, a complaint or investigative record may be disclosed:

A. To department employees designated by the commissioner; [1989, c. 173, (NEW).]

B. To designated complaint officers of the appropriate board or commission; [1989, c. 173, (NEW).]

C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation; [1989, c. 173, (NEW).]

D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies; [1989, c. 173, (NEW).]

E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated; [1989, c. 173, (NEW).]

F. Pursuant to rules which shall be promulgated by the department, when it is determined that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; and [1989, c. 173, (NEW).]

G. To the person investigated on request. The commissioner may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the commissioner determines that disclosure would prejudice the investigation. The authority of the commissioner to make such a determination shall not be delegated. [1989, c. 173, (NEW).]

[ 1989, c. 173, (NEW) .]

**2-A. Certain client records confidential.** Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission or in connection with a regulatory function within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person; [1993, c. 552, §1 (NEW).]

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions; [1993, c. 552, §1 (NEW).]

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation; [1993, c. 552, §1 (NEW).]

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or [2001, c. 345, §1 (AMD).]

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect. [1993, c. 552, §1 (NEW).]

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

[ 2009, c. 465, §2 (AMD) .]

**3. Attorney General records.** The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality of those records for any other purposes. Further disclosure of those investigative records is subject to Title 16, section 804 and the discretion of the Attorney General.

[ 2013, c. 267, Pt. B, §4 (AMD) .]

**4. Violation.** A person who knowingly or intentionally makes a disclosure in violation of this section or who knowingly violates a condition of a release pursuant to subsection 2-A commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

[ 1993, c. 552, §2 (AMD) .]

#### SECTION HISTORY

1989, c. 173, (NEW). 1993, c. 552, §§1,2 (AMD). 1993, c. 719, §4 (AMD). 1993, c. 719, §12 (AFF). 1999, c. 386, §B6 (AMD). 1999, c. 687, §§C10,11 (AMD). 2001, c. 345, §1 (AMD). 2009, c. 465, §§1, 2 (AMD). 2013, c. 267, Pt. B, §4 (AMD).

## §8003-C. UNLICENSED PRACTICE

**1. Complaints of unlicensed practice.** A board or commission identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Professional and Occupational Regulation identified in section 8001, subsection 38 may receive or initiate complaints of unlicensed practice.

[ 2009, c. 465, §3 (AMD); 2011, c. 286, Pt. B, §5 (REV) .]

**2. Investigation of unlicensed practice.** Complaints or allegations of unlicensed practice may be investigated by the Office of Professional and Occupational Regulation, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

[ 1999, c. 687, Pt. C, §12 (NEW); 2011, c. 286, Pt. B, §5 (REV) .]

**3. Unlicensed practice; criminal penalties.** Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked commits a Class E crime; and [ 2009, c. 465, §4 (AMD) .]

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years. [2009, c. 465, §4 (AMD).]

[ 2009, c. 465, §4 (AMD) .]

**4. Unlicensed practice; civil penalties.** Any person who practices or represents to the public that the person is authorized to practice a profession or trade or engage in an activity that requires a license without first obtaining a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$1,000 but not more than \$5,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

[ 2011, c. 286, Pt. B, §3 (AMD) .]

**5. Unlicensed practice; injunctions.** The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4, whether or not proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted, and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

[ 2007, c. 402, Pt. C, §5 (AMD) .]

**6. Unlicensed practice; private cause of action; repeal.**

[ 2005, c. 378, §1 (NEW); 2005, c. 378, §29 (AFF); T. 10, §8003-C, sub-§6 (RP) .]

SECTION HISTORY

1999, c. 687, §C12 (NEW). 2003, c. 452, §E10 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 378, §1 (AMD). 2005, c. 378, §29 (AFF). 2007, c. 402, Pt. C, §5 (AMD). 2009, c. 44, §1 (AMD). 2009, c. 465, §§3-5 (AMD). 2011, c. 286, Pt. B, §3 (AMD). 2011, c. 286, Pt. B, §5 (REV).

### **§8003-D. INVESTIGATIONS; ENFORCEMENT DUTIES; ASSESSMENTS**

When there is a finding of a violation, a board affiliated with the department identified in section 8001-A may assess the licensed person or entity for all or part of the actual expenses incurred by the board or its agents for investigations and enforcement duties performed. [2011, c. 286, Pt. B, §4 (AMD).]

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record. [1999, c. 687, Pt. C, §12 (NEW).]

The board, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board, which may not be less than 30 days. [2011, c. 286, Pt. B, §4 (AMD).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW). 2009, c. 465, §6 (AMD). 2011, c. 286, Pt. B, §4 (AMD).

### **§8003-E. CITATIONS AND FINES**

Any board or commission identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Professional and Occupational Regulation identified in section 8001, subsection 38 may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Professional and Occupational Regulation or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission or the Office of Professional and Occupational Regulation with regard to a regulatory function identified in section 8001, subsection 38 administered by the office regarding the violation. [2009, c. 465, §7 (AMD); 2011, c. 286, Pt. B, §5 (REV).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW). 2009, c. 465, §7 (AMD). 2011, c. 286, Pt. B, §5 (REV).

### **§8003-F. DISPOSITION OF FEES**

All money received by the Office of Professional and Occupational Regulation on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Professional and Occupational Regulation to perform the regulatory functions listed in section 8001, subsection 38 must be paid to the Treasurer of State and credited to the account for that board, commission or regulatory function within the budget of the Office of Professional and Occupational Regulation. [1999, c. 687, Pt. C, §12 (NEW); 2011, c. 286, Pt. B, §5 (REV).]

Money received by the Office of Professional and Occupational Regulation on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Professional and Occupational Regulation to perform the regulatory functions listed in section 8001, subsection 38 must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony, procuring the attendance of witnesses, all legal proceedings initiated for enforcement and administering the office. [1999, c. 687, Pt. C, §12 (NEW); 2011, c. 286, Pt. B, §5 (REV).]

Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. [1999, c. 687, Pt. C, §12 (NEW).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW). 2011, c. 286, Pt. B, §5 (REV).

## §8003-G. DUTY TO REQUIRE CERTAIN INFORMATION FROM APPLICANTS AND LICENSEES

The Office of Professional and Occupational Regulation, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, shall require: [2007, c. 621, §4 (NEW); 2011, c. 286, Pt. B, §5 (REV).]

**1. Respond to inquiries.** All applicants for license renewal to respond to all inquiries set forth on renewal forms; and

[ 2007, c. 621, §4 (NEW) .]

**2. Report in writing.** All licensees and applicants for licensure to report in writing to the office no later than 10 days after the change or event, as the case may be:

A. Change of name or address; [2007, c. 621, §4 (NEW) .]

B. Criminal conviction; [2007, c. 621, §4 (NEW) .]

C. Revocation, suspension or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant or licensee; or [2007, c. 621, §4 (NEW) .]

D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the office. [2007, c. 621, §4 (NEW) .]

[ 2007, c. 621, §4 (NEW) .]

### SECTION HISTORY

2007, c. 621, §4 (NEW). 2011, c. 286, Pt. B, §5 (REV).

## §8004. ANNUAL REPORTS

Notwithstanding any other provision of law, all annual reports or statements required of bureaus and offices within the department must be submitted to the commissioner not later than August 1st of each year and must summarize the operations and financial position of the bureau or office for the preceding fiscal year ending June 30th. After reviewing such reports and statements, the commissioner shall compile them into a report for submission to the Governor, together with such analysis as the Governor may direct. [1999, c. 687, Pt. C, §13 (AMD).]

### SECTION HISTORY

1975, c. 767, §9 (NEW). 1999, c. 687, §C13 (AMD).

## §8004-A. LEGISLATIVE REPORTS

The Director of the Office of Professional and Occupational Regulation shall report annually to the joint standing committee of the Legislature having jurisdiction over professional and occupational regulation on the status of licensing fees and fee caps. [2011, c. 691, Pt. A, §4 (AMD).]

### SECTION HISTORY

2001, c. 323, §10 (NEW). 2011, c. 286, Pt. B, §5 (REV). 2011, c. 691, Pt. A, §4 (AMD).

## **§8005. COMPLIANCE WITH SUPPORT ORDERS; LICENSE QUALIFICATIONS AND CONDITIONS**

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of bureaus, boards or commissions that compose or are affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201. [1995, c. 694, Pt. D, §7 (AMD); 1995, c. 694, Pt. E, §2 (AFF).]

### SECTION HISTORY

1993, c. 410, §V1 (NEW). 1995, c. 694, §D7 (AMD). 1995, c. 694, §E2 (AFF).

## **§8005-A. LICENSEES NOT IN COMPLIANCE WITH COURT-ORDERED FINE, FEE OR RESTITUTION; LICENSE QUALIFICATIONS AND CONDITIONS**

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as required by bureaus, boards and commissions within or affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees may not hold any such license when there has been a court-ordered suspension of that license as provided by Title 14, sections 3141 and 3142. [2003, c. 193, §1 (NEW).]

### SECTION HISTORY

2003, c. 193, §1 (NEW).

## **§8006. LICENSEES NOT IN COMPLIANCE WITH COURT ORDER OF SUPPORT AND OTHER COURT ORDERS; ENFORCEMENT OF PARENTAL SUPPORT OBLIGATIONS AND SUSPENSIONS**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" means any bureau, board or commission listed in section 8001 or 8001-A, other licensors that are affiliated with or are a part of the department and the Board of Overseers of the Bar. [1993, c. 410, Pt. V, §1 (NEW).]

B. "Compliance with a support order" means that the support obligor has obtained or maintained health insurance coverage if required by a support order and is:

(1) No more than 60 days in arrears in making any of the following payments:

(a) Payments in full for current support;

(b) Periodic payments on a support arrearage pursuant to a written agreement with the Department of Health and Human Services; and

(c) Periodic payments as set forth in a support order; and

(2) No more than 30 days in arrears in making payments as described in subparagraph (1) if the obligor has been in arrears for more than 30 days in making payments as described in subparagraph (1) at least 2 times within the past 24 months. [2003, c. 396, §1 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

C. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the

issuing state, or a child and the parent with whom the child is living, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief. [2003, c. 396, §1 (RPR).]

D. "Court-ordered suspension" means a suspension by a court of the right of a licensee to hold a professional license based on the contempt procedures pursuant to Title 14, sections 3141 and 3142. [2003, c. 193, §2 (NEW).]

[ 2003, c. 193, §2 (AMD); 2003, c. 396, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

**2. Noncompliance with a support order.** An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who is not in compliance with a support order is subject to the requirements of Title 19-A, section 2201.

[ 2003, c. 396, §2 (AMD) .]

**3. Court-ordered suspension.** An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who has not paid a court-ordered fine, court-appointed attorney's fees or court-ordered restitution is subject to court suspension of all licenses as provided in Title 14, sections 3141 and 3142.

[ 2003, c. 193, §2 (NEW) .]

#### SECTION HISTORY

1993, c. 410, §V1 (NEW). 1995, c. 694, §D8 (AMD). 1995, c. 694, §E2 (AFF). 2003, c. 193, §2 (AMD). 2003, c. 396, §§1,2 (AMD). 2003, c. 689, §B6 (REV).

## §8007. BOARD MEMBER CANDIDATE INFORMATION

The Commissioner of Professional and Financial Regulation or the chief staff administrator for an occupational and professional regulatory board shall work with the Executive Department to prepare general information regarding the purpose of an occupational and professional regulatory board and the role, responsibility and perspective of a member of an occupational and professional regulatory board, including a public member. The material must also include information specific to the board for which the individual is a prospective member, including but not limited to the time commitment, remuneration and any other pertinent details. [1993, c. 600, Pt. A, §12 (NEW).]

This information must be provided to all new candidates for membership on an occupational and professional regulatory board and to members seeking reappointment in order to fully inform the candidate or member about the nature of the position. Prior to gubernatorial appointment or reappointment, the candidate or member shall sign a statement indicating that the candidate or member has read the material and is prepared to properly discharge the duties of a member of an occupational and professional regulatory board. Failure to sign this statement disqualifies the candidate or member for appointment or reappointment on a board. [1993, c. 600, Pt. A, §12 (NEW).]

#### SECTION HISTORY

1993, c. 600, §A12 (NEW).

## **§8008. PURPOSE OF OCCUPATIONAL AND PROFESSIONAL REGULATORY BOARDS**

The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose. [1993, c. 600, Pt. A, §12 (NEW).]

### SECTION HISTORY

1993, c. 600, §A12 (NEW).

## **§8009. STANDARDIZED TERMS**

Notwithstanding any other provision of law, upon expiration of a professional or occupational licensing board member's term, that member serves until a successor is appointed and qualified. The successor's term commences at the expiration of the preceding term, regardless of the date of appointment. A vacancy occurring prior to the expiration of a specified term must be filled by appointment of a similarly qualified individual as a replacement. The replacement member serves for the remainder of the unexpired term, regardless of the date of appointment. [2013, c. 217, Pt. A, §2 (AMD).]

### SECTION HISTORY

2007, c. 402, Pt. C, §6 (NEW). 2013, c. 217, Pt. A, §2 (AMD).

## **§8010. QUORUM; CHAIR**

Notwithstanding any provision of law to the contrary, a majority of the members serving on a board or commission under section 8001, subsection 38 constitutes a quorum. The board or commission shall elect its chair. [2013, c. 246, Pt. A, §1 (NEW).]

*§8010. Veterans and military spouses*

*(As enacted by PL 2013, c. 311, §1, was repealed by PL 2013, c. 424, Pt. D, §1)*

### SECTION HISTORY

2013, c. 246, Pt. A, §1 (NEW). 2013, c. 311, §1 (NEW). 2013, c. 424, Pt. D, §3 (AFF). 2013, c. 424, Pt. D, §1 (RP).

## **§8011. VETERANS AND MILITARY SPOUSES**

By January 1, 2014, each board, commission, office and agency within the department listed in section 8001 or affiliated with the department under section 8001-A shall adopt a process to facilitate qualified returning military veterans and qualified spouses of returning military veterans or of active duty service members to qualify for professional licenses granted by those boards, commissions, offices and agencies in an expeditious manner. For the purposes of this section, "returning military veteran" means a veteran of the Armed Forces of the United States who has been honorably discharged from active duty. Notwithstanding any other provision of law, the Director of the Office of Professional and Occupational Regulation and each licensing board within or affiliated with the department shall, upon presentation of satisfactory evidence by an applicant for professional or occupational licensure, accept education, training or service completed by the applicant as a member of the Armed Forces of the United States or Reserves of the United States Armed Forces, the national guard of any state, the military reserves of any state or the naval militia of any state toward the qualifications to receive the license. [2013, c. 424, Pt. D, §2 (NEW); 2013, c. 424, Pt. D, §3 (AFF).]

**1. Endorsement.** The board, commission, office or agency may permit a returning military veteran or a spouse of a returning military veteran or of an active duty service member who holds a comparable license in another state to acquire a license by endorsement in this State for the remainder of the term of the license from the other state or until a license is obtained in this State.

[ 2013, c. 424, Pt. D, §2 (NEW); 2013, c. 424, Pt. D, §3 (AFF) .]

**2. Temporary license.** The board, commission, office or agency may permit a returning military veteran or a spouse of a returning military veteran or of an active duty service member who holds a comparable license in another state to obtain a temporary license in this State for a period of time necessary to obtain a license in this State.

[ 2013, c. 424, Pt. D, §2 (NEW); 2013, c. 424, Pt. D, §3 (AFF) .]

**3. Acceptance of military credentials.** The board, commission, office or agency shall permit a returning military veteran whose military training qualifies the veteran for a license in a profession or occupation that requires a license in this State to acquire a temporary license until a license is issued.

[ 2013, c. 424, Pt. D, §2 (NEW); 2013, c. 424, Pt. D, §3 (AFF) .]

**4. Continuing education requirements.** The board, commission, office or agency may allow a full or partial exemption from continuing education requirements for a returning military veteran or the spouse of a returning military veteran or of an active duty service member. Evidence of completion of continuing education requirements may be required for a subsequent license or renewal. A board, commission, office or agency shall provide that continuing education requirements may be met by comparable military training.

[ 2013, c. 424, Pt. D, §2 (NEW); 2013, c. 424, Pt. D, §3 (AFF) .]

#### SECTION HISTORY

2013, c. 424, Pt. D, §2 (NEW). 2013, c. 424, Pt. D, §3 (AFF).

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